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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13
14 UNITED STATES OF AMERICA) No. CR 09-0103 CRB
15 Plaintiff,) UNITED STATES SENTENCING
16 v.) MEMORANDUM FOR ALL REMAINING
17 RAFAEL FRANCO PEREZ, et al.,) DEFENDANTS
18 Defendants.)
19 _____)

20 On July 14, 2010, during the sentencing hearing for defendant Vincente Franco Escalera,
21 the Court expressed its desire for the government to file a comprehensive sentencing
22 memorandum detailing the relative culpability of each remaining co-defendant in the case.
23 Pursuant to the Court's directive, the government now files such a memorandum.

BACKGROUND

24 The government's long term investigation into the Rafael Franco Perez drug
25 organization began in the fall of 2006 and concluded with nine individuals being arrested on
26 February 4, 2009. During the government's investigation, it became clear that Perez was the
27 GOVERNMENT'S SENTENCING MEMORANDUM
28 No. CR 09-0103 CRB

1 supervisor of a large-scale narcotics organization with significant ties to Mexico. The
2 organization imported drugs into the United States through the Mexican border and distributed
3 kilogram-quantities of controlled substances, in particular crystal methamphetamine and heroin,
4 in and around the San Francisco Bay Area. At this time, the Court has already sentenced four
5 defendants in this case – Rafael Franco Perez, Cornelio Mata Espinoza, Josefina Rodriguez, and
6 Janetta Johnson.

7 The undisputed leader of the drug organization in Northern California was Perez. As
8 highlighted by the wiretap interceptions in this case, Perez coordinated the delivery of drugs from
9 Mexico to the Bay Area and the delivery of cash from the Bay Area to Mexico. For example,
10 agents identified a shipment of crystal methamphetamine that Perez's source was sending by
11 truck from Mexico to the Bay Area. Agents stopped the truck and discovered approximately
12 6.75 kilograms of methamphetamine concealed in the transmission housing. In addition, based
13 on the evidence developed during the investigation, it appears that only Perez communicated
14 with the Mexican source of supply for the methamphetamine distributed in this case. On March
15 31, 2010, the Court sentenced Perez to 300 months incarceration.

16 Perez's top lieutenant in the organization was defendant Cornelio Mata Espinoza. As
17 detailed in his plea agreement, Mata Espinoza was a manager in the organization and supplied
18 other members of the conspiracy, most notably co-defendants Veronica Alvarado Gutierrez and
19 Janetta Johnson, with large amounts of heroin and methamphetamine over a two-year period. On
20 June 30, 2010, the Court sentenced Mata Espinoza to 250 months incarceration.

21 Perez's girlfriend, Josefina Rodriguez, was a "jack of all trades" within the organization.
22 As reflected by the numerous wiretap interceptions in the case, Rodriguez dutifully followed the
23 orders given to her by Perez. She would receive drugs and store them in her home. She would
24 measure drugs according to Perez's directions and prepare them for delivery. She would
25 smuggle large amounts of U.S. Currency to Mexico to pay for previously received shipments of
26 controlled substances. For instance, on April 4, 2009, per intercepted calls, agents learned that
27 Rodriguez would be taking a large sum of money to Mexico to pay for a previously received

1 shipment of controlled substances on behalf of Perez. On the morning of April 6, 2009,
 2 Rodriguez was stopped by the California Highway Patrol, who seized \$353,877 in two suitcases
 3 from her vehicle as she was headed southbound on the highway. In addition, on numerous
 4 occasions, Rodriguez delivered drugs to Perez's customers in the Bay Area. On February 3,
 5 2010, the Court sentenced Rodriguez to 96 months incarceration.

6 One of Mata Espinoza's most frequent methamphetamine customers was Janetta Johnson.
 7 For example, toll records indicate that Johnson called a cellular telephone belonging to Mata
 8 Espinoza 297 times between July and December of 2007. Once Johnson received the
 9 methamphetamine, she would resell it to her customers in the Tenderloin neighborhood of San
 10 Francisco. On July 21, 2010, the Court sentenced Johnson to 71 months incarceration.

11 **REMAINING DEFENDANTS**

12 The remaining co-defendants in the case, Rafael Franco Escalera, Joel Ceja Mendoza,
 13 Veronica Alvarado Gutierrez, Anthony Johnston, and Eduardo Mendez, have all pled guilty and
 14 are pending sentencing in front of the Court. In addition, there are two related cases pending
 15 before the Court – *United States v. Deisy Pacheco*, CR 09-00377 CRB and *United States v.*
 16 *Ruben Rodriguez*, CR 10-00014 CRB. Pacheco has pled guilty and is pending sentencing before
 17 the Court. Ruben Rodriguez is currently awaiting trial.

18 **A. Veronica Alvarado Gutierrez**

19 Between the fall of 2006 and January 2008, Gutierrez primarily worked at the direction of
 20 her boyfriend, Mata Espinoza. During this time, Gutierrez sold heroin and methamphetamine at
 21 various locations, including a coffee shop on Market Street in San Francisco where she worked
 22 temporarily, and at several residences in Daly City and San Francisco.

23 However, on January 9, 2008, Mata Espinoza was arrested in San Francisco on an
 24 outstanding warrant and taken into custody. While Mata Espinoza was in custody, Gutierrez
 25 began contacting Mata Espinoza's customers and suppliers herself. Gutierrez continued in this
 26 role even after Mata Espinoza was convicted and ultimately deported to Mexico. Between
 27 January 9, 2008, and January 29, 2009, Gutierrez contacted Perez over 2,000 times, sometimes

1 six times per day, so she could purchase heroin and methamphetamine from him. During this
 2 time, Gutierrez seamlessly transitioned from a lower-level distributor to essentially a manager for
 3 the Perez organization.

4 **B. Vincente Franco Escalera**

5 When he initially began working for Perez in early 2008, Franco Escalera's primarily
 6 drove Perez to deliver drugs in the Bay Area. However, Franco Escalera began purchasing drugs
 7 from Perez and established some of his own narcotics customers. For example, on April 2, 2008,
 8 Perez was intercepted instructing co-defendant Josefina Rodriguez to prepare a package
 9 containing approximately 225 grams of methamphetamine. Later that evening, agents observed
 10 Rodriguez meet Franco Escalera and deliver the methamphetamine. Based on this transaction
 11 and further investigation, the government believes Franco Escalera distributed methamphetamine
 12 for Perez.

13 In addition, on at least two occasions, Franco Escalera helped unload trucks carrying large
 14 amounts of methamphetamine at his home in Stockton, California. On November 17, 2008,
 15 Perez was intercepted giving directions to co-defendant Joel Ceja Mendoza, who was driving a
 16 truck from Mexico that contained methamphetamine. A short time later, Perez directed Franco
 17 Escalera to meet Ceja Mendoza and help unload the methamphetamine at Franco Escalera's
 18 house. However, after Ceja-Mendoza expressed concern that Franco Escalera's house did not
 19 have an enclosed garage, Perez instructed Franco Escalera and Ceja Mendoza to drive to Ceja
 20 Mendoza's house in Los Banos, California. A short time later, the California Highway Patrol
 21 pulled over Ceja Mendoza and discovered 6.75 kilograms of pure methamphetamine stored in a
 22 secret compartment in the truck's transmission housing.

23 Only a few days after Ceja-Mendoza's arrest, another truck traveling from Mexico and
 24 containing methamphetamine arrived at Franco Escalera's home. Perez and Franco Escalera
 25 helped unload the methamphetamine from the transmission of the truck. Based on details
 26 developed later in the investigation, agents believe that the truck contained between 15-25
 27 pounds of pure methamphetamine.

1 **C. Eduardo Mendez**

2 Eduardo Mendez frequently purchased controlled substances from Perez and was a mid-
3 level distributor for the organization. During November 2008, agents intercepted several
4 conversations between Perez and Mendez. During these conversations, Mendez ordered
5 significant amounts of methamphetamine and heroin from Perez. For example, on November 7,
6 2008, Mendez was intercepted ordering 250 grams of heroin and 100 grams of methamphetamine
7 from Perez. Once he received the drugs from Perez, Mendez would then resell the narcotics to
8 his customers in Oakland, California.

9 **D. Ruben Rodriguez**

10 Ruben Rodriguez, the son of Josefina Rodriguez, transported pound quantities of both
11 heroin and methamphetamine from Bakersfield, California, to the Bay Area. The investigation
12 revealed that Perez would arrange for drugs to be imported from Tijuana, Mexico, and delivered
13 to Ruben's home in Bakersfield, California. Once the drugs arrived, Ruben would repack the
14 drugs and then deliver them from Bakersfield to the Bay Area. In addition, Ruben would sell
15 drugs in Bakersfield and transport money from the sale of those drugs to the Bay Area.

16 **E. Anthony Johnston**

17 Anthony Johnston, nicknamed "Gangster," is a former Norteno gang member who
18 distributed large amounts of heroin and methamphetamine for the Perez organization between
19 2006 and 2008. During the investigation, Johnston sold either heroin or methamphetamine to an
20 undercover ATF agent in San Francisco on 19 occasions between November of 2006 and
21 November 2008. During the course of these transactions, Johnston sold approximately 2,214
22 grams of heroin and 44.3 grams of actual methamphetamine, and in return, received \$53,270
23 from the undercover ATF agent. In addition to the drug sales, on August 7, 2007, Johnston sold a
24 firearm and ammunition to the undercover ATF agent for \$400.

25 **F. Joel Ceja Mendoza**

26 As discussed above, Ceja Mendoza drove a truck containing 6.75 kilograms of pure
27 methamphetamine from Mexico to the Bay Area. Prior to his arrest on November 17, 2008, Ceja

1 Mendoza was not a target of the investigation and was not an known associate of Perez.
 2 Accordingly, it appears that Ceja Mendoza was a one-time drug courier for the organization.

3 **G. Deisy Pacheco**

4 Deisy Pacheco worked for the Perez organization as a stash house manager. During the
 5 execution of a search warrant at her residence on February 4, 2009, agents found 2.5 kilograms of
 6 heroin and 556.3 grams of 99.8% pure methamphetamine. In addition, the investigation
 7 revealed that Pacheco would occasionally deliver drugs from her residence to Rodriguez or
 8 Perez.

9 **RELATIVE CULPABILITY ANALYSIS**

10 Based on the foregoing information, the government believes that Gutierrez is the most
 11 culpable of the remaining defendants. She ordered drugs directly from Perez, sometimes up to
 12 six times as day, and distributed large amounts of methamphetamine and heroin to her customers
 13 over a significant period time.

14 Although less culpable the Gutierrez, Ruben Rodriguez, Vincente Franco Escalera, and
 15 Eduardo Mendez were each entrusted with significant responsibility within organization and
 16 were equally culpable in the conspiracy. Franco Escalera worked for Perez in various roles,
 17 including driver and distributor, and was responsible for unloading load vehicles at his home.
 18 Mendez is best characterized as a mid-level distributor for Perez and had a few of his own
 19 narcotics customers. Ruben Rodriguez also had his own drug customers and was responsible for
 20 the receipt, repackaging, and delivery of drugs from Bakersfield to the Bay Area.

21 Anthony Johnston was less culpable in the conspiracy than Rodriguez, Franco Escalera,
 22 or Mendez. Johnston frequently purchased drugs from Gutierrez and is best characterized as a
 23 "street level" dealer. While Johnston was entrusted with little responsibility within the
 24 organization, the sheer volume of drug transactions between him and Gutierrez is staggering. In
 25 addition, as evidenced by the uncover ATF agent's narcotics purchases in this case, Johnston was
 26 involved in the organization throughout the duration of the conspiracy.

Finally, the government believes that Joel Ceja Mendoza and Deisy Pacheco are the least culpable of the remaining defendants. While Ceja Mendoza was arrested transporting a large amount of methamphetamine, there is no evidence that he had previously transported narcotics for the organization. Hence, he is best characterized as a one-time courier. In regards to Pacheco, the evidence demonstrates that she allowed Perez and Rodriguez to store drugs at her home. However, there is no evidence that she ever sold drugs for the organization or profited significantly for her involvement. Thus, she had very little responsibility within the organization and was essentially as stash house manager.

DATED: August 5, 2010

Respectfully submitted,

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/s/
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